

1 THE HONORABLE JAMES L. ROBART  
2  
3  
4  
5  
6  
7  
8

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

9 MICROSOFT CORPORATION,

10 Plaintiff,

vs.

11 MOTOROLA, INC., et al.,

12 Defendants.

13 

---

14 MOTOROLA MOBILITY, INC., et al.,

15 Plaintiffs,

16 vs.

17 MICROSOFT CORPORATION,

18 Defendants.

Case No. C10-1823-JLR

MICROSOFT CORPORATION'S  
RESPONSE TO MOTOROLA'S  
NOVEMBER 28, 2011 MOTION TO  
FILE DOCUMENTS UNDER SEAL RE:  
OPPOSITION TO MICROSOFT'S  
MOTION FOR LEAVE

**NOTED FOR:**  
**Friday, December 9, 2011**

19 I. **Microsoft Does Not Oppose Motorola's Motion to Seal.**

20 Microsoft does not oppose Motorola's November 28, 2011 Motion to File  
21 Documents Under Seal Re Opposition to Microsoft's Motion for Leave to File  
22 Supplemental Declaration (Dkt. No. 122). Additionally, for the same reasons as set forth in  
23 Motorola's Motion to Seal, Microsoft is required to file certain documents under seal.  
24

25 MICROSOFT CORPORATION'S RESPONSE TO  
MOTOROLA'S NOVEMBER 28, 2011 MOTION  
TO FILE DOCUMENTS UNDER SEAL RE:  
OPPOSITION TO MICROSOFT'S MOTION FOR  
LEAVE - 1

LAW OFFICES  
DANIELSON HARRIGAN LEYH & TOLLEFSON LLP  
999 THIRD AVENUE, SUITE 4400  
SEATTLE, WASHINGTON 98104  
TEL, (206) 623-1700 FAX, (206) 623-8717

1       **II. On the Basis of Motorola's Motion to Seal, Microsoft Is Required To File**  
 2       **Certain Related Documents Under Seal.**

3           To the extent that Motorola establishes a proper basis for sealing the documents that  
 4       are the subject of its Motion to Seal, Microsoft is required to file certain related materials  
 5       under seal. Specifically, Microsoft is obligated to file the following items under seal, for  
 6       the reasons detailed below:

- 7           1. Limited portions of Microsoft's Reply in Support of Its Motion for  
 8           Leave to File Supplemental Declaration of Christopher Wion in  
 9           Support of Motion for Partial Summary Judgment (the "Reply in  
 10          Support of Motion for Leave");  
 11          2. Limited portions of the December 2, 2011 Declaration of  
 12          Christopher Wion In Support of Motion for Leave to File  
 13          Supplemental Declaration (the "12/2/11 Wion Declaration");  
 14          3. Limited portions of Exhibit 2 to the Wion Declaration; and  
 15          4. The entirety of Exhibit 1 to the Wion Declaration.

16       **A. Items 1, 2 and 3 Reference Documents that Motorola Is Seeking to Seal.**

17           Microsoft's (1) Reply in Support of Motion for Leave, (2) the Wion Declaration and  
 18          (3) Exhibit 2 to the Wion Declaration each refer to and describe documents that are the  
 19          subject of Motorola's Motion to Seal.<sup>1</sup> Motorola has described the relevant documents it is  
 20          seeking to seal as containing confidential licensing communications between Motorola and  
 21          a certain third party, which information is "highly confidential and proprietary business  
 22          information." Motion to Seal, pp. 4-5.

23           In light of Motorola's pending request that the Court seal certain of the documents  
 24       referenced in Microsoft's various submissions, Microsoft is required to file Items 1, 2 and 3  
 25       under seal. Microsoft has endeavored to redact the minimum amount of material from the  
 26       publicly filed versions of these documents, consistent with Motorola's pending Motion to

---

27       <sup>1</sup> Item 1 also refers to and describes documents that are the subject of Microsoft's November 14, 2011 Motion to  
 28       Seal (Dkt. No. 110), specifically the November 10, 2011 Declaration of Jennifer Ochs.

1 Seal and Microsoft's obligations under the stipulated Protective Order approved by the  
2 Court on July 21, 2011 (Dkt. No. 72).

**B. Item 4 Consists of a Licensing Document that Motorola Is Seeking to Seal and Has Designated As Confidential.**

Exhibit 1 to the Wion Declaration consists of certain email correspondence that Motorola is seeking to seal<sup>2</sup> as well as a licensing document referenced in that email, which Motorola has produced to Microsoft with the designation "Contains Motorola Mobility, Inc. and/or Third Party Confidential Business Information, Subject to Protective Order -- Attorneys' Eyes Only." For the reasons set forth in Motorola's Motion to Seal, and under the terms of the governing Protective Order, Microsoft is required to file the entirety of Exhibit 1 to the Wion Declaration under seal.

Nothing herein is intended as a waiver of Microsoft's right to contest Motorola's designation of material as Confidential in accordance with the terms of the Protective Order. Microsoft expressly reserves the right to do so as the circumstances warrant.

DATED this 2<sup>nd</sup> day of December, 2011.

DANIELSON HARRIGAN LEYH & TOLLEFSON LLP

By /s/ Christopher Wion  
Arthur W. Harrigan, Jr., WSBA #1751  
Christopher Wion, WSBA #33207  
Shane P. Cramer, WSBA #35099

T. Andrew Culbert, WSBA #35925  
David E. Killough, WSBA #40185  
**MICROSOFT CORPORATION**  
1 Microsoft Way  
Redmond, WA 98052  
Phone: 425-882-8080  
Fax: 425-869-1327

<sup>2</sup> Exhibit 11 to the Declaration of Timothy Kowalski (attached as Exhibit A to the Declaration of Kevin Post (Dkt. No. 124)).

1                   David T. Pritikin, *Pro Hac Vice*  
2                   Richard A. Cederoth, *Pro Hac Vice*  
3                   Douglas I. Lewis, *Pro Hac Vice*  
4                   John W. McBride, *Pro Hac Vice*  
5                   SIDLEY AUSTIN LLP  
6                   One South Dearborn  
7                   Chicago, IL 60603  
8                   Phone: 312-853-7000  
9                   Fax: 312-853-7036

6                   Brian R. Nester, *Pro Hac Vice*  
7                   Kevin C. Wheeler, *Pro Hac Vice*  
8                   SIDLEY AUSTIN LLP  
9                   1501 K Street NW  
10                  Washington, DC 20005  
11                  Telephone: 202-736-8000  
12                  Fax: 202-736-8711

13                  Counsel for Microsoft Corporation

## **CERTIFICATE OF SERVICE**

I hereby certify that on December 2, 2011, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

**Attorneys for Defendants Motorola Solutions, Inc., Motorola Mobility, Inc., and  
General Instrument Corporation**

Philip S. McCune  
Lynn M. Engle  
Summit Law Group

Steven Pepe  
Jesse J. Jenner  
Norman Beamer  
Paul M. Schoenhard  
Ropes & Gray

/s/ Susie Clifford  
SUSIE CLIFFORD

MICROSOFT CORPORATION'S RESPONSE TO  
MOTOROLA'S NOVEMBER 28, 2011 MOTION  
TO FILE DOCUMENTS UNDER SEAL RE:  
OPPOSITION TO MICROSOFT'S MOTION FOR  
LEAVE - 5

LAW OFFICES  
**DANIELSON HARRIGAN LEYH & TOLLEFSON LLP**  
999 THIRD AVENUE, SUITE 4400  
SEATTLE, WASHINGTON 98104  
TEL. (206) 623-1700 FAX (206) 623-8717